

Robin Ashton  
Box 1168  
Marion, MT 59925  
(406) 755-0783  
Plaintiff pro se

**RECEIVED**

JUN 12 2015

CLERK, U.S. DISTRICT COURT  
DISTRICT OF MONTANA  
MISSOULA

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

---

ROBIN ASHTON, and similarly situated	)	
individuals	)	COMPLAINT FOR DECLARATORY,
Plaintiff	)	MONETARY, AND INJUNCTIVE
vs.	)	RELIEF, WITH
	)	JURY DEMAND
RICHARD DE JANA, HEIDI	)	Cause No.
ULBRICHT in her official and personal	)	
capacity, FLATHEAD COUNTY,	)	
DOE DEFENDANTS, Defendants	)	

---

**I. INTRODUCTION**

Plaintiff Ashton incorporates all the below as if fully set forth hereat.

Plaintiff is a multiply disabled litigant under, seeking to conclude a deliberately protracted civil litigation in which she has been denied reasonable disability accommodations. There is a history of legal abuse through the Defense; Defendant De Jana, with false assertions, harassment, bullying, threats, intimidation and retaliation through filings; which is not allowed.

The Court; Defendant Heidi Ulbricht took on the role of ADAA administrator, caused medical conditions and records to be made public, denied accommodations, and allowed Defendant

ASHTON

page 1 of 21

1 De Jana to have further, and increasingly damaging input into Plaintiff's request, further damaging  
2 her health, finances, case and ability to provide for herself..

3 Defendant Flathead County does not have the required designated coordinator/  
4 administrator or grievance office for Plaintiff, or others similarly situated to file with.

## 6 **II. JURISDICTION**

7 Plaintiff Ashton incorporates all the above as if fully set forth hereat.

8 Jurisdiction is asserted under 28 USC 1331 because it raises a civil rights claim against a  
state or local government employee or entity under 42 USC 1983. The Declaratory Judgment Act, 28  
U.S.C. 2201 and 2202.

## 11 **III. EXHAUSTION OF REMEDIES**

12 Plaintiff Ashton incorporates the above as if fully set forth hereat.

13 All known remedies have been exhausted including DOJ, Disability Rights Montana,  
14 and more. Funding is not available.

## 16 **IV. PARTIES TO CURRENT LAWSUIT**

17 Plaintiff Ashton incorporates all the above as if fully set forth hereat.

18 1. Plaintiff is Robin Ashton a citizen of Flathead County Montana; Box 1168, Marion, MT  
19 59925

20 2. Similarly situated plaintiffs also residing in Flathead County, MT.

21 1. Defendant is Richard De Jana; Box 1757, 120 4th St. W. suite 6, Kalispell, MT  
22 59903-1757

23 2. Defendant is Heidi Ulbricht acting as ADA administrator and coordinator; Flathead County  
24 Justice Center, 920 S. Main St. suite 310, Kalispell, MT 59901

25 ASHTON

3. Defendant is Flathead County; Flathead County Att'y Office Tim Fox, 920 S. Main, 2nd floor, Kalispell, MT 59901

4. Doe Defendants of Flathead County

#### V. BACKGROUND FACTS

1. Plaintiff Ashton incorporates the above as if fully set forth hereat.

2. Case starting May of 2012: As of at least Aug. 14, 2013, it was made known to the Court; Defendants Heidi Ulbricht and Richard De Jana in hearing for case no. DV-13-509 (C) that the Plaintiff has multiple invisible disabilities.

3. Plaintiff was excused multiple times from what was to be about a 3 hour hearing that turned into 8 plus; w/o her knowledge she had a right to be present while witnesses were presented and had no knowledge were coming. 1st excusal was approximately 1 1/2 hr. into hearing. Plaintiff was having inability to think clearly, and additionally was in a great deal of pain as well by the 2nd half of the day, which she let her attorney know. It took 6 months for Plaintiff to fully recover from the effects of that one 8 hr. day.

4. Defendants Ulbricht and DeJana have seen that every time Plaintiff has been in a hearing, Plaintiff has problems in under an hour and a half.

5. Defendant Ulbricht at no time did anything to ensure disability accommodations would be arranged for Plaintiff; which is not allowed.

6. May 29, 2014 Plaintiff properly requested by letter accompanied with medical note as instructed by ACLU, for reasonable accommodations for trial upcoming in Aug. 2014, to Defendant Ulbricht. There was no response. It was not fully addressed until 6 months later.

7. June 25, 2014 at pretrial hearing Defendant Ulbricht now acting as ADA administrator, stated no medical note was attached to request, besides these were not sufficient.

ASHTON

1 Defendant De Jana was then deliberately, fully, openly, brought into this process, which is not  
2 allowed. Plaintiff asked Court to just let her know what they required and she would provide it.  
3 There was never any response.

4 8. Oct. 29, 2014 at 2nd pretrial meeting Defendant Ulbricht told Plaintiff she must file a  
5 motion for a hearing on accomodation request, which is not allowed.

6 9. Nov. 17, 2014 accommodation hearing was held, and for the third time evidence and  
7 witnesses were not looked at, considered or heard. Defendant Ulbricht took a 10 min. break to read  
8 the unallowed memorandum by Defendant De Jana. Simple accommodations were denied as  
9 "inconvenient to the court", which is not allowed.

10 10. The trial date had already been rescheduled a few days prior to this hearing to start Dec. 5,  
11 2014, with no accommodation, it was clear there was no intention of giving accommodations.  
12 Defendant Ulbricht said Plaintiff could have a half hour break twice during the 8 hour day; this is  
13 not an accommodation for the Plaintiff. Plaintiff then had a panic attack in victim witness  
14 advocate's office just after this hearing, and filed initial complaint with DOJ.

15 11. Nov. 18, 2014 Plaintiff filed a request for Defendant Ulbricht to amend the decision.

16 12. Nov. 20, 2014 Defendant DeJana filed another response degrading and abusing Plaintiff  
17 concerning health and accommodations. This is not allowed.

18 13. Nov. 21, 2014 a 3rd pretrial hearing was held. Trial was yet again delayed for other  
19 reasons.

20 14. Dec. 22, 2014, Defendant Ulbricht denied amending the decision.

21 15. Throughout the case, Defendant De Jana continually has input, attempts to diagnose and  
22 wrongly so, maligns, mocks and attacks the Plaintiff's health, intelligence, abilities, abuses medical  
23 records of the Plaintiff, has caused her additional disability, requiring need for medical care; which  
24 is not allowed. The number of retaliation counts are far too cumbersome to list here.

25 16. About this time Plaintiff was referred to a Certified Forensic Disability Specialist

26 ASHTON

1 Advocate (CFDSA) to help Plaintiff better understand her rights, and ability to better file causes  
2 with DOJ.

3 17. Plaintiff then learned that the Defendant Flathead County is required to have a designated  
4 ADA administrator in their building, and even later on a grievance office for same. It does not, and  
5 this is not allowed. It thus is in violation to every litigant requesting accommodations.

6 18. Plaintiff made Defendants De Jana and Ulbricht aware there were violations of ADA  
7 law. Nothing was done. Plaintiff after hearing back from DOJ brought violations to their attention  
8 again, and sent notice of intent to file suit, including to Flathead County. No attempt to correct any  
9 deficiencies have been made.

10 19. Each time the Plaintiff brings before the Court the deteriorating and ill effects Defendant  
11 De Jana's behavior is having on her, it is deliberately, maliciously, ramped up by him, and in  
12 fact made her suicidal for months, then adds this on top of it. He continues on with such filings,  
13 and on her disabilities. This has resulted in visit to E.R.

14 20. The original accommodations Plaintiff requested were the very least amount she thought  
15 she might be able to get through trial with, and are no longer sufficient due to the additional  
16 disability of psychiatric injury (not mental illness) acquired from legal abuse.

17 21. The Plaintiff has been denied civil rights, due process, equal access to the justice system  
18 in violation of multiple federal laws, caused unnecessary legal expense, medical expense, personal  
19 injury, and damage to her physical/personal integrity.

20 22. The negligent, and much intentional, infliction of emotional distress, has resulted in  
21 Plaintiff's addiction to otherwise unnecessary Rx which also causes physical damage, and need for  
22 long term ongoing medical care and detox. after all the legal business is finally finished.

23 23. At Jan. 9, 2015 pretrial hearing, Plaintiff asked if it could be put in the jury summons  
24 that people not wear fragranced products, as being in a closed up room with that many people might  
25 cause problems due to asthma and chemical sensitivities. Defendant De Jana stated he was

26 ASHTON

1 chemically sensitive and never had a problem, like it would necessarily apply to Plaintiff.  
2 Defendant Ulbricht did not make a decision, but said it would be considered. As of this date  
3 it has been answered either way.

4 24. The United States of America has already acted as Amicus Curiae in the right to  
5 sue, and loss of judicial immunity previously; *Badillo-Santiago v. Andreu-Garcia*, Civil No.  
6 98-1993 (Sec).

7 25. It is now impossible for the Plaintiff to complete her original case with even the  
8 minimal accommodations initially requested. More must be supplied in order to be able to  
9 cognitively function in a court setting.

10  
11 **VI. STATEMENT OF CLAIMS**

12 Plaintiff Ashton incorporates all the above as if fully set forth hereat.

13  
14 **COUNT I. REQUEST FOR RELIEF UNDER THE**  
15 **UNIFORM DECLARATORY JUDGMENTS ACT**

16 Plaintiff Ashton incorporates all the above as if fully set forth hereat.

17 The parties are unable to agree as to the legal rights of the disabled Plaintiff,  
18 and require the assistance of the Court to see ADAA law fully enforced for the Plaintiff and all  
19 similarly situated.

20 Even should the Defendant De Jana's malicious, false assertions that the Plaintiff is just  
21 pretending ill health be real; Plaintiff has still experienced first hand the violations of the ADA  
22 laws in this case by Defendants, experienced all the ill effects from same, including injury, that  
23 would then require it. The problem is there, exists, and needs to be remedied to be in compliance  
24 with federal law for the benefit of all. They have been on the books for years, and it is inexcusable  
25 that the Justice system of Defendant Flathead County is so far out of compliance. It does dishonor

1 to the Justice and legal profession, and harm to litigants.

2 Plaintiff requests the Court determine the ADAA laws must be complied with, and  
3 reparations made to the Plaintiff.

4  
5 **COUNT II. VIOLATION OF DESIGNATED**

6 **ADAA ADMINISTRATOR**

7 Plaintiff Ashton incorporates all the above as if fully set forth hereat.

8 Each building with over 50 people in it is to designate a single, responsible employee for  
9 reviewing and making detrmintions as to fulfillment of reasonable accommodations. Person  
10 does not exist. (ADA Title II-8.5000, 28 C.F.R. 35.107) Defendant Flathead County is  
11 in violation.

12  
13 **COUNT III. VIOLATION OF ADAA GRIEVANCE PROCEDURE**

14 Plaintiff Ashton incorporates all the above as if fully set forth hereat.

15 Each building requiring an ADA administrator must have a grievance procedure. It does not  
16 exist. (ADA Title II-8.5000, 28 C.F.R. 35.107) Defendant Flathead County is in violation.

17  
18 **COUNT IV. COURT DID NOT REFER PLAINTIFF'S CASE**

19 **FOR ADA ADMINISTRATIVE OVERSIGHT**

20 Plaintiff Ashton incorporates all the above as if fully set forth hereat.

21 Defendant Ulbricht was made aware of Plaintiff's disabilities and did not take appropriate  
22 actions to ensure accommodatons or protections were made via administrator, or acting as  
23 administrator.

24 As demonstrated in the ruling in *Badillo-Santiago v. Andreu-Garcia*, 70 F Supp. 2d at 89:  
25 If a judge makes a ruling regarding a litigant's ADA accommodations they do such as an

26 ASHTON

1 administrator and not a judge. Thereby an administrative function does not give judicial immunity  
2 under the 11<sup>th</sup> Amendment. This means that all further determinations in the case are subject to  
3 appeal by either party on the grounds of bias.

4 The ruling in *Boston Hous. Auth. v Bridgewaters*, 452 Mass. 833, 845-848, 898 N.E. 2d  
5 848 (2009) provides that, when an individual with a disability has notified an entity of his/her  
6 disability, this “amount[s] to a request for an accommodation”; “[t]o make a reasonable  
7 accommodation request, no ‘magic’ words are required.”

8 *Olmstead v L.C.*, 527 U.S. 581, 606 n. 16 (1999) found that Title II may be enforced  
9 through private suits against public entities. In both 42 U.S.C. 12133 and 12202, Congress  
10 expressly abrogated the States’ Eleventh Amendment immunity to private suits in federal court.  
11 This means that an assigned Trier of Fact who makes a determination regarding reasonable  
12 accommodations under ADA(AA) can be sued by either party in an action where this access to  
13 confidential, protected information about the disabled litigant creates bias, even if illusory.

14 The Supreme Court in *University of Alabama v Garrett*, 531 U.S. 356 (2001) reaffirmed  
15 this power of Congress to abrogate this immunity.

16 **COUNT V. APPROPRIATE ACCOMMODATIONS LETTER**

17 **WAS REFUSED**

18 Plaintiff Ashton incorporates all the above as if fully set forth hereat.

19 Plaintiff's properly submitted request letter was ignored, then refused to be considered.

20 *Biscaro v. Stern* (2010) 181 Cal.App.4th 702 specifically found that the court *must* take  
21 action on and/or respond to a request for reasonable accommodations; failing to respond to a  
22 request may result in reversal on appeal. 28 C.F.R. 35.160(b)(2) (2009): under the ADAAA, “[i]n  
23 determining what type of auxiliary aid and service is necessary, a public entity shall give primary  
24 consideration to the requests of the individual with disabilities.”

25 The ruling in *Boston Hous. Auth. v Bridgewaters*, 452 Mass. 833, 845-848, 898 N.E. 2d 848  
26 (2009) provides that, when an individual with a disability has notified an entity of his/her disability,  
this “amount[s] to a request for an accommodation”; “[t]o make a reasonable accommodation



1 request, no ‘magic’ words are required.”

2 In accordance with 42 USC 12101 et seq, it is required that the court respond with a letter  
3 of approval or denial within a “reasonable” amount of time. This did not happen.

4  
5 **COUNT VI. PLAINTIFF WAS REQUIRED TO MAKE MOTIONS**  
6 **FOR HEARING FOR ACCOMMODATIONS**

7 Plaintiff Ashton incorporates all the above as if fully set forth hereat.  
8 Motions and hearing were made with deleterious argument and input from opposing  
9 counsel, causing further injury to the Plaintiff.

10 Requiring plaintiffs to prove that they have disabilities would defeat the privacy  
11 protections set forth in the ADA; *Cossette v. Minn. Power & Light*, 188 F.3d 964, 969 (8th Cir.  
12 1999)

13 See Count IV.: *Olmstead v L.C.*, 527 U.S. 581, 606 n. 16 (1999).

14 The Supreme Court in *University of Alabama v Garrett*, 531 U.S. 356 (2001) reaffirmed  
15 this power of Congress to abrogate this immunity. Requiring an individual with a disability to file  
16 motions and make arguments to the Trier of Fact regarding reasonable accommodations is not only  
17 outside the prescribed scope of the ADA(AA) process, it is unduly burdensome and costly to the  
18 litigant and immediately negates the Trier of Fact’s immunity as described in Count IV *Badillo-*  
*Santiago v. Andreu-Garcia*.

19 **COUNT VII. VIOLATION OF GRANTING REASONABLE**  
20 **ACCOMMODATIONS**

21 Plaintiff Ashton incorporates all the above as if fully set forth hereat.  
22 Reasonable accommodations for disability may not be denied, and denies the person due process,  
23 equal access and civil rights. The Court does not get to qualify the litigants disability:  
24 Requiring plaintiffs to prove that they have disabilities would defeat the privacy protections set

25 ASHTON

1 forth in the ADA; *Cossette v. Minn. Power & Light*, 188 F.3d 964, 969 (8th Cir. 1999).

2 Further, such an objection and ruling can be construed as retaliation against a person with  
3 a disability as defined by 42 USC 12203. *Olmstead v L.C.*, 527 U.S. 581, 606 n. 16 (1999). See  
4 count IV.

5 “With the ADA Amendments Act of 2008, Congress rejected the heightened standard for  
6 demonstrating disability that the Supreme Court articulated in a series of decisions and emphasized  
7 that it intended the protections of the ADA to be applied broadly. Revised Title I regulations state  
8 that “the primary purpose” of the ADA amendments “is to make it easier for people with  
9 disabilities to obtain protection under the ADA.”<sup>ix</sup> Taken as a whole, the changes to the statute and  
10 regulations for Titles I, II, and III clarify (a) who has a disability entitled to protection under the  
11 ADA and Section 504, (b) who is entitled to accommodations, and (c) how those determinations  
12 are made and by whom. No legislation or regulations require that documentation be requested or  
13 obtained in order to demonstrate entitlement to legal protections because of disability and seek  
14 reasonable accommodations. The regulations acknowledge that postsecondary institutions may  
15 request a reasonable level of documentation. However, requiring extensive medical and scientific  
16 evidence perpetuates a deviance model of disability, undervalues the individual’s history and  
17 experience with disability and is inappropriate and burdensome under the revised statute and  
18 regulations.” The Association on Higher Education And Disability Supporting Accommodation  
19 Requests: Guidance on Documentation Practices, April 2012.

20 The ADA has a three part definition of disability. Under ADA, and individual with a  
21 disability is a person who: (1) has a physical or mental impairment that materially limits one or  
22 more major life activities; OR (2) has a record of such an impairment; OR (3) is regarded as having  
23 such an impairment. Plaintiff easily meets the requirements, and has long term record and  
24 regarded as.

25 A person with trauma related invisible disabilities will be denied equal access to the Court  
26 and grossly exploited if misinformation is allowed to attack an already overloaded psyche. See  
*Popovich v. Cuyahoga County Court of Common Pleas*, 527 U.S. 727, 640 (1999).

Litigants with trauma induced invisible disabilities react the same to helplessness in the face of

1 jeopardy, regardless of the genesis of their injury. Denying such reasonable accommodations,  
2 which are intended only to “level the playing field” and ensure equal participatory and testimonial  
3 access under the 14<sup>th</sup> Amendment, is tantamount to allowing the playing of sounds of gunfire while  
4 a survivor of war is in court.

5 As found in *In Re Marriage of James*, 158 Cal. App. 4<sup>th</sup>, 1261, only three reasons exist  
6 why an ADA request for reasonable accommodations can be denied: a) “[t]he applicant has failed  
7 to satisfy the requirements of the Court [CA Rules of Court, rule 1.100]; b) “[t]he requested  
8 accommodation would create an undue financial or administrative burden on the court; and/or c)  
9 “[t]he requested accommodation would fundamentally alter the nature of the service, program or  
10 activity.”

11 The Plaintiff's requests did not violate any of these.

12 The Defendant's may not now claim the additional expense they have now created the  
13 necessity for, to ensure equal access for the Plaintiff is an undue burden. It did not, and would not  
14 exist if not for their actions. When law firms outside the county laugh when they hear where this  
15 complaint originates from, it is a serious problem.

16 **COUNT VIII. OPPOSING PART WAS ALLOWED INPUT TO**  
17 **ACCOMMODATIONS REQUEST**

18 Plaintiff Ashton incorporates all the above as if fully set forth hereat.

19 Defendant De Jana did this through motions, memorandums, and hearings.

20 Requiring plaintiffs to prove that they have disabilities would defeat the privacy protections  
21 set forth in the ADA; *Cossette v. Minn. Power & Light*, 188 F.3d 964, 969 (8th Cir. 1999)

22 In any application for reasonable accommodations, opposing counsel is enjoined from  
23 commentary or objection to any portion of an application as this fundamental right to equal access  
24 is guaranteed by the Fourteenth Amendment.

1 See Count IV: *Olmstead v L.C.*, 527 U.S. 581, 606 n. 16 (1999) where this access to  
2 confidential, protected information about the disabled litigant creates bias, even if illusory.

3 Neither the judge nor opposing counsel, by law, is supposed to have access to the  
4 information regarding the reasons for the accommodations. This is covered by both ADA and  
5 HIPAA. The application is processed by a designated ADA Coordinator who then informs the  
6 bench of the accommodations and either the ADA Coordinator or the bench advises opposing  
7 counsel. Despite the fact that some states ignore this by claiming that the judge or opposing party is  
8 “part of” the accommodaton process, their misinformation is superceded by Federal law. In fact,  
9 the law does not require that a litigant file for accommodations to be protected. If a judge and/or  
10 opposing party is already aware of such a disability and chooses to use that disability to damage the  
11 litigant, doing so is a violaton of this law and all related judgments could be appealed on the basis  
12 of bias.

13  
14 **COUNT IX. PLAINTIFF HAD MEDICAL RECORDS MISUSED**  
15 **AND MADE PART OF PUBLIC RECORD**

16 Plaintiff Ashton incorporates all the above as if fully set forth hereat.

17 “With the ADA Amendments Act of 2008, Congress rejected the heightened standard for  
18 demonstrating disability that the Supreme Court articulated in a series of decisions and  
19 emphasized that it intended the protections of the ADA to be applied broadly. Revised Title I  
20 regulations state that “the primary purpose” of the ADA amendments “is to make it easier for  
21 people with disabilities to obtain protection under the ADA.”ix Taken as a whole, the changes to  
22 the statute and regulations for Titles I, II, and III clarify (a) who has a disability entitled to  
23 protection under the ADA and Section 504, (b) who is entitled to accommodations, and (c) how  
24 those determinations are made and by whom. No legislation or regulations require that  
25 documentation be requested or obtained in order to demonstrate entitlement to legal protections  
26 because of disability and seek reasonable accommodations. The regulations acknowledge that  
postsecondary institutions may request a reasonable level of documentation. However, requiring

ASHTON

1 extensive medical and scientific evidence perpetuates a deviance model of disability, undervalues  
2 the individual's history and experience with disability and is inappropriate and burdensome under  
3 the revised statute and regulations." The Association on Higher Education And Disability  
Supporting Accommodation Requests: Guidance on Documentation Practices, April 2012.

4 Self report is sufficient. The Plaintiff provided more than enough documentation.  
5 Defendant's Ulbricht and De Jana refused this. Defendant De Jana went far past this trying to  
6 refute conditions even exist, and the scientific evidence in areas he knows nothing about. This is  
7 malicious behavior on his part. He had no right to accept, refute, gain, or use any of it.

8 Medical records of Plaintiff have been gained, given, recorded and used illegitimately  
9 though legal proceedings.

10 See Count IV. *Olmstead v L.C.*, 527 U.S. 581, 606 n. 16 (1999) and *University of Alabama*  
11 *v Garrett*, 531 U.S. 356 (2001).

#### 12 13 **COUNT X. RETALIATORY ACTS**

14 Plaintiff Ashton incorporates all the above as if fully set forth hereat.

15 Once a court has been made aware of such a disability, it is illegal under 42 USC 12203 to  
16 use any portion of that disability for leverage, threats, retribution or any form of bias.

17 Defendant De Jana, ongoing, and adding further disability to Plaintiff. (ADA II-3.11000)  
18 Too cumbersome to list all here. See Count VIII.

19 Defendant De Jana has effectively removed my ability to provide for myself financially  
20 and medically, and was also aware of my limited financial situation. He has not only unilaterally  
21 violated Federal disability law, he has done so knowingly, deliberately and with apparent malice  
22 and intent to deny Plaintiff due process, equal access, ability to complete case, caused Plaintiff to  
23 become indigent, and needing to seek assistance with foodstamps, with the aid of Defendant  
24 Ulbricht, seeing all the paperwork, and taken no steps to put a stop to it, though acknowledging  
25 Defendant De Jana was making unnecessary paperwork and costs.

26 ASHTON

1 Through his ongoing actions of harassment, intimidation, threats and IIED, has added  
2 psychiatric injury, adding to the list of disabilities and needs for accomodation required. He has  
3 decades of experience, so Plaintiff expects he knows exactly what he is doing. Defendant Ulbricht,  
4 seeing the the paperwork that has gone through the Court, and in hearings, has taken no steps to put  
5 a stop to this. Also see count VII.

6  
7 **COUNT XI. DENIAL OF DUE PROCESS**

8 Plaintiff Ashton incorporates all the above as if fully set forth hereat.

9 To the extent that Title II enforces the Fourteenth Amendment, the Court in *Popovich v*  
10 *Cuyahoga County Court of Common Pleas*, 527 U.S. 727, 640 (1999) found that, "The fact that  
11 Title II implicates constitutional violations in areas ranging from education to voting also suggests  
12 that heightened judicial scrutiny under both the Due Process and Equal Protection Clauses is  
13 appropriate."

14 Plaintiff has also been denied due process in her case in other venues, such as being  
15 allowed to make amended complaint, seeing discovery completed, ability to locate and call  
16 witnesses, and be present to hear witness testimony.

17  
18 **COUNT XII. VIOLATION OF EQUAL ACCESS**

19 Plaintiff Ashton incorporates all the above as if fully set forth hereat.

20 As found in *In Re: Ruby McDonough*, 457 Mass. 512 (2010), all courts are required by the  
21 Americans with Disabilities Act Amendments Act of 2009 to facilitate equal participatory and  
22 testimonial access to individuals with disabilities. Failure to grant requested participatory and  
23 testimonial accommodations will bar equal access to the Court.

24 Federal law mandates that anyone with anyone with a qualifying disability, whether visible

or not, be granted “reasonable accommodations” to participate in court processes when the litigant's ability to participate fully is compromised by becoming symptomatic. The landmark case of Tennessee v Lane found that this not a question of due process but rather equal access to the court. Plaintiff has been denied.

#### **COUNT XIII. VIOLATION OF EQUAL PROTECTION**

Plaintiff Ashton incorporates all the above as if fully set forth hereat.

See Count XI. *Popovich v Cuyahoga County Court of Common Pleas*, 527 U.S. 727, 640 (1999) Equal Protection. Also Count VII.

#### **COUNT XIV. VIOLATION OF CIVIL RIGHTS**

Plaintiff Ashton incorporates all the above as if fully set forth hereat.

At the least; 14th amendment sec.1 rights have been violated, as well as Montana Constitution Article II sec. 4. and see Count VII. *Popovich v Cuyahoga County Court of Common Pleas*, 527 U.S. 727, 640 (1999). Plaintiff is not getting equal protection, or individual dignity. Also see Count VII.

#### **COUNT XV. NEGLIGENCE**

Plaintiff Ashton incorporates all the above as if fully set forth hereat.

The Defendant's have been negligent in carrying out duties for the jobs they function in, behaving in a manner conducive to the wellbeing of the Plaintiff, the case, the legal system and society as a whole.

**COUNT XVI. MALICE**

Plaintiff Ashton incorporates all the above as if fully set forth hereat.

Defendant De Jana has acted in malice in the violations in this case, as stated in other counts.

**COUNT XVII. PERSONAL INJURY**

Plaintiff Ashton incorporates all the above as if fully set forth hereat.

Plaintiff has suffered personal injury to her physical, emotional and financial health due to Defendant De Jana's deliberate behavior in this case, requiring medical care, and addictive, brain damaging medication. Having to file for this, that should never have come into being, is just adding to it.

**COUNT XVIII. BREACH OF GOOD FAITH**

Plaintiff Ashton incorporates all the above as if fully set forth hereat.

The Defendant's have not acted in the good faith and reasonable expectation expected by the public or the Plaintiff, in providing civilized, peaceful, honest, reasonable, equitable access to the justice system. They have degraded what should be an honorable, and able to be looked-up-to institution in our country.

**COUNT XIX. NIED**

Plaintiff Ashton incorporates all the above as if fully set forth hereat.

Defendant Flathead County aided in the negligent emotional distress of Plaintiff, by not having the appropriate services in place, and not being up to date on laws on the books.

Defendant Ulbricht aided, by not properly handling disability request, ignoring that the Plaintiff was already known to have disability, undergoing severe distress, allowing continued abuse by Defendant De Jana, and not being up to date on laws on the books.

Defendant De Jana contributed by not being up to date on laws on the books.



**COUNT XX. IED**

Plaintiff Ashton incorporates all the above as if fully set forth hereat.

This applies to Defendant De Jana and Defendant Ulbricht.

Defendant Ulbricht aided intentional emotional distress, after it being repeatedly pointed out of the ongoing abuse by Defendant De Jana, ignoring it, for months.

Defendant De Jana has committed hundreds of counts of IED throughout the case, which are too cumbersome to put in this complaint, and are public record. Defendant De Jana was aware well before 2013 hearing that Plaintiff was a soft spoken person, via her attorney. He was further warned by settlement master not to be harsh to me. These seem to have been taken as an indicator to be even more aggressive in his bullying/stalking, harassing, threatening, intimidating behavior. They are believed by the Plaintiff to be a direct, deliberate attempt at destroying the Plaintiff's life sufficiently to disable her from being able to complete her case. As previously mentioned, it is to the extent that even when informed of the ill effects not only on her finances, and health, they were upped, and then when she made known she had been made suicidal by them, they were not stopped, and instead continues to mock the Plaintiff. He then further argues that the laws do not apply to the Plaintiff.

Plaintiff is certain Defendant De Jana is aware of the rule she recently learned of, "the eggshell skull", that you must take the Plaintiff as they are. He knows, and he does it anyway. That is malice, harassment, violations of the Plaintiff's rights, and has caused her serious damage.

**COUNT XXI. PETITION FOR TEMPORARY RESTRAINING**

**ORDER AND INJUNCTION ORDERS TO COMPEL**

Plaintiff Ashton incorporatea all the above as if fully set forth hereat.

Defendant De Jana and Ulbricht's activities have caused the Plaintiff to be unable to be fully functional in and to the completion of her case. The continuance of these activities will cause

1 further harm to the parties in their original case, and additional personal and financial injury to  
2 the Plaintiff.

3 The Plaintiff and for the wellbeing of all citizens in the county, need to have the  
4 the laws upheld. Without same, the Plaintiff cannot expect any real just outcome to her original  
5 case.

6 Petition for enclosed Temporary Restraining Order accompanying this Complaint  
7 upon Defendant De Jana from having further say concerning disability, health, or using medical  
8 records related to ADA of Plaintiff in any manner, written or spoken, and to refrain from  
9 ongoing retaliatory actions, such as threats, harassment, name calling, insults, threats of arrest,  
10 additional unnecessary paperwork and arguments, or any other wording the Court sees necessary  
11 throughout the completion of original case DV-13-509 (C), with provision for renewal should it  
12 become necessary.

13 Order for injunction to compel provision for all reasonable accommodations now  
14 necessary to Plaintiff, with all costs for needed auxilliary aid of medical CFDSA, divided and paid  
15 for by Defendants, as Plaintiff having been made indigent through this process is unable to afford  
16 same, and even if affordable, should not be required to pay for damages created by Defendants.  
17 This includes said expenses throughout the remainder of all hearings and litigation from original  
18 case, and all those created by and originating from it to their final conclusion.

19 Being the County is in noncompliance, and therefore previous, and until compliant, future,  
20 ADA rights of others have been and will be violated, Defendant Flathead County should open and  
21 start funding an account for those who can come out of the woodwork.

22  
23 **WHEREFORE,** Plaintiff Ashton prays for the following relief:

24 1. A declaratory judgment determining the ADA laws must be enforced.

25 ASHTON

page 18 of 21

26

2. A declaratory judgment Defendant Flathead County must a.s.a.p. train a designated ADA administrator/coordinator, and an office that can also be used to file grievances for same.
3. A declaratory judgment that the Plaintiff must be allowed to make and receive reasonable accommodations, including the additional ones now required, so we may complete our case, without yet further delays.
4. For the Court to issue the proposed Order accompanying this Complaint, compelling Defendant's to jointly among themselves share in paying for the services of the now required, qualified medical CFDSA in order to monitor the Plaintiff's functional condition and rights for all remaining hearings and trial in original case, and all cases caused to be derived from that. Fee schedule is sent to this Court's ADA administrative office & can coordinate payments.
5. For the Court to issue the proposed Temporary Restraining Order accompanying this Complaint upon Defendant De Jana from having further say concerning disability, health, or using medical records related to ADAA of Plaintiff in any manner, written or spoken, and to refrain from ongoing retaliatory actions, such as threats, harassment, additional unnecessary paperwork and arguments.
6. For the Court to issue the proposed Order accompanying this complaint compelling Defendant Flathead County to open an account for other litigants having been denied accommodations in said county.
7. For the judgment of the federally appropriate fines for violations of ADA laws upon each Defendant, currently being \$75,000 for first offense, and \$150,000 per each additional offense, violations occurring on or after April 28, 2014. \$55,000 and \$110,000 prior to that date.
8. For punitive damages.
9. For compensatory damages.

1  
2 10. For all additional damages and costs.

3 11. For such other and further relief as the Court deems just and proper.

4 12. And /or (numbers 7-10) total judgment of \$4.5 million to the Plaintiff.

5 Plaintiff reserves the right to make amended complaint.

6 ~~ASHTON~~ ~~page 19 of 21~~

7 DATED this 10<sup>th</sup> day of June 2015.

8  
9 Robin Ashton

10 Robin Ashton, Plaintiff

11 VERIFICATION

12 STATE OF MONTANA )  
13 ) ss.  
14 County of Flathead )

15 Robin Ashton, being first duly sworn, deposes and says that she is the Plaintiff in the above  
16 matter; that she has read the foregoing and that the facts and informations contained therein are true  
17 and correct to the best of her knowledge, information and belief.

18 Robin Ashton

19 Robin Ashton

20 Subscribed and sworn to before me this 10<sup>th</sup> day of June 2015 by Robin Ashton

21  
22 Notary Public for the State of Montana

23 N/A

24 Printed Name of Notary Public

25 ASHTON

page 20 of 21

26

**JURY DEMAND**

Plaintiff hereby demands a trial by jury on all such issues which a jury may properly consider.

By: Robin Ashton June 10/2015

Robin Ashton Pro Se  
Box 1168  
Marion, MT 59925  
406-755-0783